



THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

POLICY ON PROHIBITED HARASSMENT AND DISCRIMINATION

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I. Policy Statement

The University of North Carolina at Chapel Hill is committed to providing an inclusive and welcoming environment for all members of our community. In accordance with its Policy Statement on Non-Discrimination, The University of North Carolina at Chapel Hill does not discriminate in offering equal access to its educational programs and activities or with respect to employment terms and conditions on the basis of an individual's race, color, gender, national origin, age, religion, creed, disability, veteran's status, sexual orientation, gender identity or gender expression (hereinafter his/her "protected status").

The University recognizes the rights of all members of the University community to learn and work in an environment that is free from harassment and discrimination based on his/her protected status as described above. Any such harassment or discrimination of University students and employees, including faculty, non-faculty employees who are exempt from the Personnel Act ("EPA non-faculty employees"), employees who are subject to the State Personnel Act ("SPA employees"), post-doctoral scholars, and student employees is prohibited.

This Policy also prohibits retaliation against an individual who in good faith utilizes the procedures herein included as appendices and/or participates in any investigation related to an allegation of prohibited harassment or discrimination.

The complete text of the Policy Statement on Non-Discrimination is located at <http://www.unc.edu/campus/policies/nondiscrim.html>

II. Resources for Information and Assistance

The Equal Opportunity/ADA Office has primary responsibility for administering this Policy, but questions, concerns, and/or complaints may be addressed to any of the individuals or offices identified in the applicable appendix (Appendix B for students, Appendix C for EPA employees (faculty and EPA non-faculty employees), and Appendix D for SPA employees).

Individuals in these offices are prepared to help all members of the University community understand the Policy, including providing training and information and assisting units who wish to participate in online training. They are able to explain the options available for resolving concerns related to alleged harassment or discrimination in academic or work settings at the University. All offices receiving complaints of harassment or discrimination must notify the Equal Opportunity/ADA Office promptly. See Section V regarding confidentiality.

III. Applicability

It is the responsibility of every employee and student in the University community to strive to create an environment free of harassment and discrimination as described in Section I.

This Policy and associated procedures apply to University students and employees, including faculty, EPA non-faculty employees, SPA employees, post-doctoral scholars and student employees, on campus, off campus, online and study abroad. The non-discrimination provisions also apply to contractors and other third parties within the University's control.

A. In employment

The following employment practices are prohibited by the University:

1. Failing or refusing to hire or discharging any individual or otherwise discriminating against any individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's protected status; or
2. Limiting, segregating, or classifying employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his/her status as an employee because of such individual's protected status.

B. In academic and student programs

It is the policy of the University that there shall be no harassment or discrimination against any student or applicant for admission as a student because of such individual's protected status with respect to recruiting, admission, financial aid, academic progress/grading, housing and residential communities, and access to programs, including social, recreational and health programs.

IV. Protections for Complainants

During the investigation and resolution of harassment and discrimination complaints, reasonable steps should be taken to protect the complainant from both the alleged behavior and possible retaliation. The University does not tolerate any form of retaliation against a person because he/she in good faith files a complaint or cooperates in an investigation of a complaint of alleged harassment or discrimination. Any person who retaliates against another person for exercising rights under this Policy in good faith will be subject to appropriate and prompt disciplinary action.

Any person who has a concern about potential or actual retaliation should contact the Equal Opportunity/ADA Office or any of the resources provided in the applicable appendix (Appendix B for students, Appendix C for EPA employees (faculty and EPA non-faculty employees), and Appendix D for SPA employees), for assistance in addressing the concern, and may also be able to utilize the appropriate grievance procedure within the designated time frame to address any concern not otherwise resolved.

V. Confidentiality

Because breaches of confidentiality compromise the ability of the University to investigate and resolve claims of prohibited harassment and discrimination, administrators responsible for implementing this Policy will attempt to protect the confidentiality of harassment and discrimination proceedings to the extent reasonably possible. All participants in the process are required to respect the confidentiality of the proceedings and circumstances giving rise to the dispute. Complete confidentiality however, cannot be guaranteed except when 1) a student shares a concern with Counseling and Wellness Services in Campus Health Services, and when 2) an employee shares a concern with the Ombuds Office that does not involve an imminent risk of serious harm.

The University is obligated to investigate all allegations that may constitute prohibited harassment or discrimination. Any person seeking information or guidance concerning potential harassment or discrimination should be advised that the University may need to take action once informed of an allegation whether or not the person wants to pursue a complaint.

The University may not be able to investigate an anonymous complaint unless sufficient information is provided to enable the University to conduct a meaningful and fair investigation. The University may be precluded from taking strong disciplinary action in the absence of a named complainant.

VI. Academic Freedom and Harassment

The University of North Carolina at Chapel Hill is committed to the principles of free inquiry and expression. Vigorous discussion and debate are fundamental to this commitment, and this Policy is not intended to restrict teaching methods or freedom of expression, nor will it be permitted to do so.

Harassment or discrimination prohibited by this Policy is not a proper exercise of academic freedom and may not be legally protected expression. On the contrary, prohibited harassment and discrimination compromise the University's integrity, as well as its tradition of intellectual freedom.

VII. False Allegations

A complaint of alleged harassment or discrimination may not always be able to be substantiated, but the lack of corroborating evidence should not discourage a person from seeking relief through procedures outlined in this Policy. However, it is a violation of this Policy to falsely accuse faculty, staff or students of unlawful harassment or discrimination.

VIII. Education/Prevention

As part of the University's commitment to providing an educational and work environment free from harassment and discrimination, this Policy shall be disseminated widely to the University community through e-mail communication, publications, websites, new employee orientations, student orientations, and other appropriate channels of communication. Training programs both on-line and in-person are provided for members of the University community and are required for supervisors and managers. On-line training programs can be accessed through the Equal Opportunity/ADA Office's website at <http://equalopportunity-ada.unc.edu/equal-opportunity-training/index.htm>.

IX. Records

The Equal Opportunity/ADA Office will report annually to the Chancellor on all incidents that have been reported under this Policy.

X. Effective Date

Revised effective September 6, 2011

Revised effective February 1, 2011

Revised effective May 20, 2010

The initial effective date of this Policy was June 24, 2008.

This Policy is maintained by the Equal Opportunity/ADA Office.

XI. RELATED UNIVERSITY POLICIES

[Policy Statement on Non-Discrimination](#)

[Instrument of Student Judicial Governance](#)

Student Grievance Policy and Procedures

<http://deanofstudents.unc.edu/index.php/policies.html>

Expedited Administrative Review by Disability Services Advisory Committee (for students denied an accommodation for a disability)

<http://disabilityservices.unc.edu/policies/index.html> (page 11)

[Amorous Relationships Policy: Policy Prohibiting Improper Relationships Between Faculty/Staff and Students](#)

[Official Recognition of Student Organizations Non-Discrimination Policy](#)

[Protection for Reporting Improper Government Activities](#)

SPA Grievance Policy

<http://hr.unc.edu/n/SPA-GRIEVE-ADVANCE>

EPA Non-Faculty Grievance Policy of The University of North Carolina at Chapel Hill

http://hr.unc.edu/policies-procedures-guidelines/epa-non-faculty-policies/epa-nf-grievance/CCM1_018363

Procedures for the Faculty Grievance Procedure

<http://faccoun.unc.edu/faculty-code-and-policies/procedures-for-the-faculty-grievance-committee/>

Post-doctoral Scholars Grievances

<http://postdocs.unc.edu/?q=node/20> (see “Grievances” section)

Appendix A

Definitions

The following definitions are applicable to this Policy.

A. **Discrimination** — An intentional or unintentional act that results in adverse treatment of a person based on race, color, gender, age, color, national origin, religion, creed, disability, veteran’s status, sexual orientation, gender identity or gender expression (“protected status”).

B. **Harassment** — A form of discrimination that occurs when verbal or physical conduct based on an individual’s protected status (race, color, gender, age, color, national origin, religion, creed, disability, veteran’s status, sexual orientation, gender identity, or gender expression) unreasonably interferes with that individual’s work or academic performance or creates a hostile work or educational environment for that individual, including affecting his/her personal safety or participation in University-sponsored activities.

1. **Hostile Environment Harassment** — Unwelcome conduct by an individual(s) against another individual based upon protected status that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive. The determination of whether an environment is hostile must be based on all of the circumstances. These circumstances could include the severity of the conduct, the frequency of the conduct, and whether it is threatening or offensive. An isolated incident unless extremely severe will usually not amount to hostile environment harassment.

Because sexual harassment has been more thoroughly defined in the law than harassment based upon other protected categories, the following definition of sexual harassment is included in this Policy:

2. **Sexual Harassment** – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct when:

- Submission to such conduct is made, explicitly or implicitly, a term or condition of an individual’s education, employment, or participation in a University activity;
- Submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting that individual’s academic standing, employment status or participation in a University activity (this is commonly referred to as “Quid Pro Quo” Harassment); or
- Such conduct unreasonably affects or interferes with an individual’s academic or work performance or creates an intimidating, hostile or offensive environment.

C. **Protected Status** — The University prohibits harassment or discrimination based upon race, color, gender, age, national origin, religion, creed, disability, veteran's status, sexual orientation, gender identity, or gender expression.

1. **Age** — With respect to employment, individuals who are 40 years of age or older are protected from discrimination. There is no age threshold for educational programs or activities.
2. **Color** — Discrimination or harassment based on an individual's pigmentation, complexion, or skin shade or tone.
3. **Creed** — A well-formed and thought out set of beliefs held by more than one individual, but not necessarily belief in a supreme being. The University will accommodate an individual's observances and practices required by his/her creed, unless it is unable to reasonably accommodate an individual's creed-required observance or practice without undue hardship.
4. **Disability** — A person with a disability is any person who has a physical or mental impairment which substantially limits one or more major life activities; or has a record of such impairment; or is regarded as having such an impairment. A person with a disability must be able to perform the essential functions of the employment position or the academic program, with or without a reasonable accommodation.
5. **Gender** — An individual's biological status of male or female.
6. **Gender Expression** — The external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions.
7. **Gender Identity** — An individual's psychological sense of self as a male or female.
8. **National Origin** — Discrimination or harassment against an individual because he or she comes from a particular place, because of his or her ethnicity or accent, or because it is believed that he or she has a particular ethnic background.
9. **Race** — Discrimination or harassment based on racial or ethnic ancestry or based on a person's physical characteristics associated with race, such as a person's color, hair, facial features, height and weight.
10. **Religion** — All aspects of religious observance and practice, as well as belief, unless the University is unable to reasonably accommodate an individual's religious observance or practice without undue hardship.

11. **Sexual Orientation** — The inclination or capacity to develop intimate emotional and sexual relationships with people of the same gender (lesbian, gay), the other gender (heterosexual), or either gender (bisexual).
 12. **Veteran's Status** — Covered Veterans include disabled Veterans, special disabled Veterans, Veterans of the Vietnam era and other protected Veterans as defined by federal and State law.
- D. **Retaliation** — An adverse action taken against an individual because he/she in good faith has reported allegations of harassment or discrimination or has participated in an investigation of alleged harassment or discrimination. Adverse action includes overt or covert acts of reprisal, interference, restraint, penalty, or intimidation.

Appendix B

PROCEDURES FOR REPORTING AND RESPONDING TO CONCERNS OF STUDENTS REGARDING ALLEGATIONS OF HARASSMENT AND/OR DISCRIMINATION

Any University student who feels he/she has been harassed or discriminated against based upon his/her protected status or who feels he/she has been retaliated against for his/her good faith reporting of allegations of prohibited harassment or discrimination or his/her participation in an investigation of alleged prohibited harassment or discrimination may utilize these procedures to bring an internal complaint to redress the situation, or may proceed directly to the Student Grievance Committee (for cases involving discrimination by a University employee or contractor against a student). Cases involving harassment or discrimination by one student against another student must proceed directly to the Honor Court.

Questions, concerns or complaints pursuant to this Policy should be directed to the Equal Opportunity/ADA Office. Questions regarding the Student Grievance Committee or the Honor Court process should be directed to the Office of the Dean of Students.

Because of the sensitive nature of alleged prohibited harassment or discrimination, all members of the University community are encouraged to make reasonable efforts to have their concerns addressed and resolved either informally or through the Administrative Review Process, as described in Section II, below. Under the Administrative Review Process, responsibility for investigation and resolution of a complaint is assigned to Deans, Directors, and Department Chairs and others in administrative and supervisory positions within the University or with the Equal Opportunity/ADA Office.

Please contact the Equal Opportunity/ADA Office for consultation and information on the guidelines for utilizing the Administrative Review option.

I. Time Frames

A. Filing a Complaint

The University encourages a student who has a concern involving a faculty, staff or student employee to bring a complaint within one hundred eighty (180) calendar days of the alleged prohibited harassment or discrimination. More information about filing a complaint is provided in Section III.A., below.

B. Investigating a Complaint

1. Initial Notice

Any administrator or supervisor who receives notice of a student's complaint of alleged prohibited harassment or discrimination must notify the Equal Opportunity/ADA Office within five (5) calendar days of receiving the complaint.

2. Conducting the Review

The University expects that an Administrative Review will be performed and the Administrative Review Report submitted to the Equal Opportunity/ADA Office within forty-five (45) calendar days of receiving the complaint unless an extension has been granted. More information about extensions and about the report is provided in Section III.C.-D., below.

3. Responding to Report and Notification to the Parties

The appropriate Dean, Director, or Department Chair will have no more than five (5) calendar days to either accept or reject the recommendations provided in the Administrative Review Report, subject to any appeal rights of the parties involved.

The Equal Opportunity/ADA Office will notify the parties, to the extent permitted by law, of the results of the Administrative Review and of the efforts to resolve the complaint within ten (10) calendar days after the final Administrative Review Report is issued. More information about this notification is provided in Section III.D., below.

II. Administrative Responsibility

University administrators and supervisors have special responsibility for implementing these procedures and are required to timely and appropriately respond to concerns. If an employee in an administrative or supervisory position has knowledge of conduct that may constitute prohibited harassment or discrimination or receives a complaint alleging prohibited harassment or discrimination by a University student, he/she must take steps to promptly and appropriately address the matter. Any other student or employee who becomes aware of conduct that may constitute prohibited harassment or discrimination is strongly encouraged to contact the Equal Opportunity/ADA Office.

The administrator or supervisor must promptly notify the Equal Opportunity/ADA Office and partner with that Office, the Office of Human Resources, or other appropriate University offices for advice on investigation, education, mediation, documentation, and/or disciplinary action, if appropriate.

If an administrator becomes aware of prohibited harassment or discrimination of a student by another student, he/she must take steps to promptly and appropriately address the matter. The administrator must consult with the Dean of Students Office or the Equal Opportunity/ADA Office for advice on investigation, education, mediation, documentation and/or corrective action, if appropriate.

Consistent with Section V. of the Policy, above, University administrators and supervisors cannot assure confidentiality if they receive information about conduct that may constitute prohibited harassment or discrimination.

III. Administrative Review Process

The purpose of an Administrative Review, which will include interviewing the parties and witnesses, is to gather and assess the facts relevant to the complaint and to make recommendations to equitably address the concerns in order to resolve the complaint.

A. Filing a Complaint:

1a. Student Complaints against Other Students

A student with a complaint (the "Complainant") of alleged prohibited harassment or discrimination against another student must proceed directly to the Honor Court.

1b. Student Complaints against Employees or Contractors

A student with a complaint (the "Complainant") of alleged prohibited harassment or discrimination against an employee (including faculty members, staff members, post-doctoral scholars, and student employees) or a contractor should bring his/her complaint directly to the attention of the Equal Opportunity/ADA Office within the time frame established in Section I.A., above, either orally or in writing. A student may also bring his/her complaint to the appropriate administrator or supervisor. This may include a department chair, associate dean or other administrator.

Any supervisor or administrator receiving a complaint must contact the Equal Opportunity/ADA Office within five (5) calendar days from the receipt of the complaint for consultation regarding an appropriate response.

B. Determination of Whether to Conduct an Administrative Review

1. Administrative Review Deemed Appropriate

If the Complainant alleges conduct that appears to violate this Policy, the Equal Opportunity/ADA Office will initiate an Administrative Review if informal attempts at resolution have been unsuccessful.

With the Complainant's knowledge, the Equal Opportunity/ADA Office will identify the appropriate administrator(s) to conduct the Administrative Review (the "Administrative Reviewer", who is usually the supervisor or administrator most directly involved, excluding the person accused of prohibited harassment or discrimination), and inform the administrator(s)

of the complaint and ensure that he/she is appropriately trained, including training on his/her responsibilities to promptly investigate the complaint under this Policy and Procedure as provided in Section III.C., below. The Equal Opportunity/ADA Office will also notify the appropriate Dean, Director or Department Chair.

While the supervisor of the person accused of prohibited harassment or discrimination generally has the responsibility for conducting the Administrative Review, another person(s) may be assigned responsibility depending on the nature of the complaint. The Equal Opportunity/ADA Office may also conduct the investigation. Importantly, in situations where a student alleges that a faculty member in his/her major department or area of study has violated this Policy, the Equal Opportunity/ADA Office will assign someone outside of the department or area of study to conduct the Administrative Review.

2. Administrative Review Not Deemed Appropriate

If an Administrative Review is not deemed appropriate under this Policy, the Equal Opportunity/ADA Office will meet with the Complainant to explain the reason and discuss other options for addressing his/her concerns.

C. Investigating the Complaint

The Administrative Reviewer is expected to promptly investigate and submit a confidential Administrative Review Report to the appropriate Dean, Director, or Department Chair, and to the Equal Opportunity/ADA Office within forty-five (45) calendar days of receiving the complaint, unless an extension has been granted. If meeting this deadline is not possible, the Administrative Reviewer will advise the Dean, Director or Department Chair and the Equal Opportunity/ADA Office, of the need for an extension and request a revised date. The Equal Opportunity/ADA Office will review the request for a revised date and determine whether an extension is warranted. If the extension is approved, the Equal Opportunity/ADA Office will provide written notification of the revised date to the parties.

1. The person(s) accused of prohibited harassment or discrimination must be notified of the complaint, advised of the need for confidentiality and reminded to refrain from any behavior that could in any way be construed as retaliatory.
2. Both the Complainant and the person accused of prohibited harassment or discrimination will be given a copy of this Policy and relevant Procedures and also be given an explanation of the Administrative Review process.

3. Both the Complainant and the person accused of prohibited harassment or discrimination may provide information relevant to the complaint, including the names of any witnesses to the Administrative Reviewer(s) or the Equal Opportunity/ADA Office.
4. In determining whether alleged conduct violates this Policy and what, if any, corrective action should be taken, the Administrative Reviewer must consider the record as a whole, including the nature of the alleged conduct and the context in which it occurred, and determine whether a preponderance of the evidence shows that this Policy has been violated.

D. Report and Documentation

1. At the conclusion of an Administrative Review, the Administrative Reviewer(s) will prepare a written report (“Administrative Review Report”) that includes, subject to confidentiality protections provided by the Family Educational Rights and Privacy Act and the State Personnel Act: factual findings, a summary of witness statements, a determination of whether this Policy has been violated, and the resolution of the complaint, including any corrective actions recommended or taken.
2. Upon receipt of the Administrative Review Report, the Dean, Director, or Department Chair shall have no more than five (5) calendar days to either accept or reject the recommendations contained in the report, subject to any appeal rights.
3. The Equal Opportunity/ADA Office will notify the parties, to the extent permitted by law, of the results of the review and of efforts to resolve the complaint within ten (10) calendar days after the final Administrative Review report is issued. The Equal Opportunity/ADA Office will inform the Complainant that appropriate corrective action has been taken, but cannot reveal the specifics of the action if it is a confidential personnel action. Additional information regarding what may and may not be reported to either party is available from the Office of University Counsel.
4. The University will also maintain an appropriate record in the confidential departmental personnel file and the appropriate student’s file.

E. Actions Taken as a Result of the Review

1. If an Administrative Review results in a finding that the conduct or issue complained of violates this Policy, appropriate corrective action must be taken. In deciding what action is appropriate, the Administrative Reviewer should consult with the Equal Opportunity/ADA Office and the Office of Human Resources, the Academic Personnel Office, or the appropriate Dean, Director, or Department Chair.

Corrective action to address the accused party's conduct may include counseling about the behavior, a letter of reprimand, or other appropriate action up to suspension or dismissal. The Administrative Reviewer may also take measures to assist the Complainant, including but not limited to recommending a review of any negative academic decision that may have resulted from the conduct that violated this Policy or informing the Complainant of University resources, such as Counseling and Wellness Services, that may be helpful.

2. If an Administrative Review results in a finding that the conduct or issue complained of does not violate this Policy, all parties will be advised of the finding and the basis thereof.

IV. Appeal of an Administrative Review

A. Information and Assistance with Formal Resolution

Information and assistance regarding formal resolution of a student's complaint is available from the Office of the Dean of Students.

B. Time Frames for Filing an Appeal

A student has thirty (30) calendar days from the date of notification of the Administrative Review findings to file an appeal if he/she feels that the Administrative Review failed to produce an equitable resolution.

C. Appeal to the Student Grievance Committee

A student whose complaint is not resolved through the Administrative Review Process may proceed to the Student Grievance Committee.

If a student chooses to proceed with the Student Grievance Committee, a grievance must be filed according to that Committee's established procedures, and that Committee will proceed under its established procedures.

Appendix C

PROCEDURES FOR REPORTING AND RESPONDING TO CONCERNS OF EPA FACULTY AND NON FACULTY EMPLOYEES REGARDING ALLEGATIONS OF HARASSMENT AND/OR DISCRIMINATION

Any EPA employee who feels he/she has been harassed or discriminated against based upon his/her protected status or who feels he/she has been retaliated against for his/her good faith reporting of allegations of prohibited harassment or discrimination or his/her participation in an investigation of alleged prohibited harassment or discrimination may utilize these procedures to bring an internal complaint to redress the situation.

Questions, concerns or complaints pursuant to this Policy may be directed to the Equal Opportunity/ADA Office. Questions regarding the Faculty Grievance Committee should be directed to the Faculty Grievance Committee Chair. Questions regarding the EPA Non-Faculty Grievance Committee should be directed to the Office of Human Resources EPA Non-Faculty Personnel Office.

Because of the sensitive nature of alleged prohibited harassment or discrimination, all members of the University community are encouraged to make reasonable efforts to have their concerns addressed and resolved either informally or through the Administrative Review Process. Under the Administrative Review Process, responsibility for investigation and resolution of a complaint is assigned to Deans, Directors, and Department Chairs and others in supervisory positions within the University or with the Equal Opportunity/ADA Office.

Please contact the Equal Opportunity/ADA Office for consultation and information on the guidelines for utilizing the Administrative Review option.

I. Time Frames

A. Filing a complaint

1. The University encourages a faculty or EPA non-faculty employee who has a concern to bring a complaint within one hundred eighty (180) calendar days of the alleged harassment or discrimination. More information about filing a complaint is provided in Section III. A., below.
2. However, an EPA non-faculty employee who wishes to preserve his or her rights to proceed under the grievance policy must initiate a complaint under the administrative review process within thirty (30) calendar days of a specific action or decision. If initiated within this time frame, the employee is provided an extension of the normal grievance submission deadline under the EPA Non-Faculty Grievance Policy (see Section 7.c.2 of the EPA Non-Faculty Grievance Policy).

B. Investigating a Complaint

1. Initial Notice

Any administrator or supervisor who receives notice of an EPA employee's complaint of alleged prohibited harassment or discrimination must notify the Equal Opportunity Office within five (5) calendar days of receiving the complaint.

2. Conducting the Review

The University expects that an Administrative Review will be performed and the Administrative Review Report submitted to the Equal Opportunity/ADA Office within forty-five (45) calendar days of receiving the complaint unless an extension has been granted. More information about extensions and about the report is provided in Section III. C.-D., below.

3. Responding to Report and Notification to the Parties

The appropriate Dean, Director, or Department Chair will have no more than five (5) calendar days to either accept or reject the recommendations provided in the Administrative Review Report, subject to any appeal rights of the parties involved.

The Equal Opportunity/ADA Office will notify the parties, to the extent permitted by law, of the results of the Administrative Review and of the efforts to resolve the complaint within ten (10) calendar days after the final report is issued. More information about this notification is provided in Section III. D., below.

II. Administrative Responsibility

University administrators and supervisors have special responsibility for implementing these procedures and are required to timely and appropriately respond to concerns. If an employee in an administrative or supervisory position has knowledge of conduct that may constitute prohibited harassment or discrimination or receives a complaint alleging prohibited harassment or discrimination by a University employee, including student employees acting in their employee role under his/her administrative jurisdiction, he/she must take steps to promptly and appropriately address the matter. Any employee who becomes aware of conduct that may constitute prohibited harassment or discrimination is strongly encouraged to contact the Equal Opportunity/ADA Office.

The administrator or supervisor must notify the Equal Opportunity/ADA Office, and partner with that Office, the Office of Human Resources, or other appropriate

University offices for advice on investigation, education, mediation, documentation, and/or disciplinary action, if appropriate.

III. Administrative Review Process

The purpose of an Administrative Review, which will include interviewing the parties and witnesses, is to gather and assess the facts relevant to the complaint and make recommendations to equitably address the concerns in order to resolve the complaint.

A. Filing a Complaint

- 1a. A faculty or EPA Non-Faculty employee with a complaint (the “Complainant”) of alleged prohibited harassment or discrimination may bring his/her complaint directly to the attention of the Equal Opportunity/ADA Office within the time frame established in Section I.A., above.
- 1b. A faculty or EPA Non-Faculty employee with a complaint (the "Complainant") of alleged prohibited harassment or discrimination against an employee (including faculty members, staff members, post-doctoral scholars, and student employees) or a contractor may also bring his/her complaint to the appropriate administrator or supervisor, either orally or in writing. This may include a department chair, associate dean or other administrator.

Any supervisor or administrator receiving a complaint must contact the Equal Opportunity/ADA Office within five (5) calendar days from the receipt of the complaint for consultation regarding an appropriate response.

B. Determination of Whether to Conduct an Administrative Review

1. Administrative Review Deemed Appropriate

If the Complainant alleges conduct that appears to violate this Policy, the Equal Opportunity/ADA Office will initiate an Administrative Review if informal attempts at resolution have been unsuccessful.

With the Complainant’s knowledge, the Equal Opportunity/ADA Office will identify the appropriate administrator(s) to conduct the Administrative Review (the “Administrative Reviewer”, who is usually the supervisor or administrator most directly involved, excluding the person accused of prohibited harassment or discrimination), and inform the administrator(s) of the complaint and ensure that he/she is appropriately trained, including training on his/her responsibilities under this Policy and Procedure as provided in Section III.C., below. The Equal Opportunity/ADA Office will also notify the appropriate Dean, Director or Department Chair.

While the supervisor of the person accused of prohibited harassment or discrimination generally has the responsibility for conducting the Administrative Review, another person(s) may be assigned responsibility depending on the nature of the complaint. The Equal Opportunity Office may also conduct the investigation.

2. Administrative Review Not Deemed Appropriate

If an Administrative Review is not deemed appropriate under this Policy, the Equal Opportunity/ADA Office will meet with the Complainant to explain the reason and discuss other options for addressing his/her concerns.

C. Investigating the Complaint

The Administrative Reviewer is expected to promptly investigate and submit a confidential Administrative Review Report to the appropriate Dean, Director, or Department Chair and to the Equal Opportunity/ADA Office within forty-five (45) calendar days of receiving the complaint unless an extension has been granted. If meeting this deadline is not possible, the Administrative Reviewer will advise the Dean, Director or Department Chair and the Equal Opportunity/ADA Office of the need for an extension and request a revised date. The Equal Opportunity/ADA Office will review the request for a revised date and determine whether an extension is warranted. If the extension is approved, the Equal Opportunity/ADA Office will provide written notification of the revised date to the parties.

1. The person(s) accused of prohibited harassment and discrimination must be notified of the complaint, advised of the need for confidentiality and reminded to refrain from any behavior that could in any way be construed as retaliatory.
2. Both the Complainant and the person accused of prohibited harassment or discrimination will be given a copy of this Policy and relevant Procedures and also be given an explanation of the review process.
3. Both the Complainant and the person accused of prohibited harassment or discrimination may provide information relevant to the complaint, including the names of any witnesses to the Administrative Reviewer(s) or the Equal Opportunity/ADA Office.
4. In determining whether alleged conduct violates this Policy and what, if any, corrective action should be taken, the Administrative Reviewer must consider the record as a whole, including the nature of the alleged conduct and the context in which it occurred, and determine whether a preponderance of the evidence shows that this Policy has been violated.

D. Report and Documentation

1. At the conclusion of an Administrative Review, the Administrative Reviewer(s) will prepare a written report (“Administrative Review Report”) that includes subject to confidentiality protections provided by the State Personnel Act: factual findings, a summary of witness statements, a determination of whether this Policy has been violated, and the resolution of the complaint, including any corrective actions recommended or taken.
2. Upon receipt of the Administrative Review Report, the Dean, Director, or Department Chair shall have no more than five (5) calendar days to either accept or reject the recommendations contained in the report, subject to any appeal rights.
3. The Equal Opportunity/ADA Office will notify the parties, to the extent permitted by law, of the results of the review and efforts to resolve the complaint within ten (10) calendar days after the final report is issued. The Equal Opportunity/ADA Office will inform the Complainant that appropriate corrective action has been taken, but cannot reveal the specifics of the action if it is a confidential personnel action. Additional information regarding what may and may not be reported to either party is available from the Office of University Counsel.
4. The University will maintain an appropriate record in the confidential departmental personnel file.

E. Actions Taken As a Result of the Review

1. If an Administrative Review results in a finding that the conduct or issue complained of violates this Policy, appropriate corrective action must be taken. In deciding what action is appropriate, the Administrative Reviewer should consult with the Equal Opportunity/ADA Office, and/or the Office of Human Resources, the Academic Personnel Office, and the appropriate Dean, Director, or Department Chair.

Corrective action to correct the accused party’s conduct may include counseling about the behavior, a written warning, or other appropriate action up to dismissal. The Administrative Reviewer may also take measures to assist the Complainant, including but not limited to recommending a review of any negative performance decision that may have resulted from the conduct that violated this Policy or informing the Complainant of University resources, such as the Ombuds Office, or Employee Assistance, that may be helpful.

2. If an Administrative Review results in a finding that the conduct or issue complained of does not violate this Policy, all parties will be advised of the finding and the basis thereof.

IV. Appeal of an Administrative Review

A. Information and Assistance with Formal Resolution

For faculty, information and assistance regarding formal resolution of a complaint is available from the Chair of the Faculty Grievance Committee.

For EPA Non-Faculty, information and assistance regarding formal resolution of a complaint is available from the Chair of the EPA Non-Faculty Grievance Committee or from the Office of Human Resources.

For post-doctoral scholars, information and assistance regarding formal resolution of a complaint is available from the Office of Post-Doctoral Affairs.

B. Time Frames for Filing an Appeal

1. Faculty

- a. A faculty member has thirty (30) calendar days from the date of notification of the Administrative Review findings to file a grievance if he/she feels that the Administrative Review failed to produce an equitable resolution. A grievance must be filed with the Faculty Grievance Committee according to its established procedures, and that Grievance Committee will proceed under its established procedures.
- b. Note: A faculty member who alleges prohibited harassment or discrimination as evidence that a decision not to reappoint was based upon one or more of the existing impermissible grounds stated in the Trustees' Rules and Regulations Governing Academic Tenure in The University of North Carolina at Chapel Hill (the "Tenure Regulations") must file a complaint with the Faculty Hearings Committee in accordance with Section IV of the Tenure Regulations.
- c. Librarians holding general faculty membership must file their grievance with the Faculty Grievance Committee.

2. EPA Non-Faculty

EPA non-faculty employees who have promptly initiated an Administrative Review as established by Section II.B.2, above, has ten (10) calendar days following completion of the Administrative Review process to file a grievance if he/she feels that the Administrative Review failed to produce an equitable

resolution. A grievance must be filed with the EPA Non-Faculty Grievance Committee according to its established procedures, and that Grievance Committee will proceed under its established procedures (see Section 7.c.2 of the EPA Non-Faculty Grievance Policy).

3. Post-Doctoral Scholars

Post-doctoral scholars may proceed to utilize the grievance procedures established by the Office of Postdoctoral Affairs.

Appendix D

PROCEDURES FOR REPORTING AND RESPONDING TO CONCERNS OF SPA EMPLOYEES REGARDING ALLEGATIONS OF PROHIBITED HARASSMENT OR DISCRIMINATION

Any SPA employee who feels he/she has been harassed or discriminated against based upon his/her protected status or who feels he/she has been retaliated against for his/her good faith reporting of allegations of harassment or discrimination or his/her participation in an investigation of alleged prohibited harassment or discrimination may utilize these procedures to bring an internal complaint to redress the situation.

Questions, concerns or complaints pursuant to this Policy should be directed to the Equal Opportunity/ADA Office. Questions regarding the SPA Grievance process should be directed to Employee and Management Relations in the Office of Human Resources.

Internal complaints may be handled through an Administrative Review process, as described in Section II, below. Because of the sensitive nature of alleged prohibited harassment or discrimination, all members of the University community are encouraged to make reasonable efforts to have their concerns addressed and resolved through the Administrative Review Process. Under the Administrative Review Process, responsibility for investigation and resolution of a complaint is assigned to Deans, Directors and Department Chairs and others in administrative and supervisory positions within the University or with the Equal Opportunity/ADA Office.

Please contact the Equal Opportunity/ADA Office for consultation and information on the guidelines for utilizing this option.

I. Time Frames

A. Filing a Complaint

1. The University encourages an SPA employee who has a concern to bring a complaint within one hundred eighty (180) calendar days of the alleged prohibited harassment or discrimination. More information about filing a complaint is provided in Section III. A., below.
2. However, an SPA employee who wishes to retain rights to appeal an Administrative Review through the SPA Grievance Policy must initiate the Administrative Review process within thirty (30) calendar days of the alleged prohibited harassment or discrimination (see http://hr.unc.edu/policies-procedures-guidelines/spa-employee-policies/employee-relations/GRIEVE-SPA#P27_676).

3. If the Grievance Filing Form is not submitted or if an Administrative Review is not initiated within thirty (30) calendar days of the alleged act, then the SPA Grievant shall have forfeited his/her grievance rights regarding the issue. In such cases, the outcome of the Administrative Review is not eligible for appeal under the SPA Grievance Policy.
4. An applicant who alleges a denial of employment based on prohibited harassment or discrimination may also file a grievance directly with the Office of Administrative Hearings.

B. Investigating a Complaint

1. Initial Notice

Any administrator or supervisor who receives notice of an SPA employee's complaint of alleged prohibited harassment or discrimination must notify the Equal Opportunity/ADA Office within five (5) calendar days of receiving the complaint.

2. Conducting the Review

The University expects that an Administrative Review will be performed and the Administrative Review Report submitted to the Equal Opportunity/ADA Office within forty-five (45) calendar days of receiving the complaint unless an extension has been granted. More information about extensions and about the report is provided in Section III. C.-D., below.

3. Responding to Report and Notification to the Parties

The appropriate Dean, Director, or Department Chair will have no more than five (5) calendar days to either accept or reject the recommendations provided in the Administrative Review Report, subject to any appeal rights of the parties involved.

The Equal Opportunity/ADA Office will notify the parties, to the extent permitted by law, of the results of the Administrative Review and of the efforts to resolve the complaint within ten (10) calendar days after the final report is issued. More information about this notification is provided in Section III. D., below.

II. Administrative Responsibility

University administrators and supervisors have special responsibility for implementing these procedures and are required to timely and appropriately respond to concerns. If an employee in an administrative or supervisory position has knowledge of conduct that may constitute prohibited harassment or discrimination or

receives a complaint alleging prohibited harassment or discrimination by a University employee, including student employees acting in their employee role, he/she must take steps to promptly and appropriately address the matter. Any employee who becomes aware of conduct that may constitute prohibited harassment or discrimination is strongly encouraged to contact the Equal Opportunity/ADA Office.

The administrator or supervisor must notify the Equal Opportunity/ADA Office, and partner with that Office, the Office of Human Resources, or other appropriate University offices for advice on investigation, education, mediation, documentation, and/or disciplinary action, if appropriate.

III. Administrative Review Process

The purpose of an Administrative Review, which will include interviewing the parties and witnesses, is to gather and assess the facts relevant to the complaint and to make recommendations to equitably address the concerns in order to resolve the complaint.

A. Filing a Complaint

1a. An SPA employee with a complaint (the "Complainant") of alleged prohibited harassment or discrimination may bring his/her complaint directly to the attention of the Equal Opportunity/ADA Office within the time frame established in Section I.A., above.

1b. An SPA employee with a complaint (the "Complainant") of alleged prohibited harassment or discrimination against an employee (including faculty members, staff members, post-doctoral scholars, and student employees) or a contractor may bring his/her complaint to the appropriate administrator or supervisor, either orally or in writing. This may include a department chair, associate dean or other administrator.

Any supervisor or administrator receiving a complaint must contact the Equal Opportunity/ADA Office within five (5) calendar days from the receipt of the complaint for consultation regarding an appropriate response.

B. Determination of Whether to Conduct an Administrative Review

1. Administrative Review Deemed Appropriate

If the Complainant alleges conduct that appears to violate this Policy, the Equal Opportunity/ADA Office will initiate an Administrative Review if informal attempts at resolution have been unsuccessful.

With the Complainant's knowledge, the Equal Opportunity/ADA Office will identify the appropriate administrator(s) to conduct the Administrative Review

(the “Administrative Reviewer”), who is usually the supervisor or administrator most directly involved, excluding the person accused of prohibited harassment or discrimination), and inform the administrator(s) of the complaint and ensure that he/she is appropriately trained, including training on his/her responsibilities under this Policy and Procedure as provided in Section III.C., below. The Equal Opportunity/ADA Office will also notify the appropriate Dean, Director or Department Chair.

While the supervisor of the person accused of prohibited harassment or discrimination generally has the responsibility for conducting the Administrative Review, another person(s) may be assigned responsibility depending on the nature of the complaint. The Equal Opportunity Office may also conduct the investigation.

2. Administrative Review Not Deemed Appropriate

If an Administrative Review is not deemed appropriate under this Policy, the Equal Opportunity/ADA Office will meet with the Complainant to explain the reason and discuss other options for addressing his/her concerns.

C. Investigating the Complaint

The Administrative Reviewer is expected to promptly investigate and submit a confidential Administrative Review Report to the appropriate Dean, Director, or Department Chair and to the Equal Opportunity/ADA Office within forty-five (45) calendar days of receiving the complaint unless an extension has been granted. If meeting this deadline is not possible, the Administrative Reviewer will advise the Dean, Director or Department Chair and the Equal Opportunity/ADA Office of the need for an extension and request a revised date. The Equal Opportunity Office will review the request for a revised date and determine whether an extension is warranted. If the extension is approved, the Equal Opportunity/ADA Office will provide written notification of the revised date to the parties.

1. The person(s) accused of prohibited harassment and discrimination must be notified of the complaint, advised of the need for confidentiality and reminded to refrain from any behavior that could in any way be construed as retaliatory.
2. Both the Complainant and the person accused of prohibited harassment or discrimination will be given a copy of this Policy and relevant Procedures and also be given an explanation of the Administrative Review process.
3. Both the Complainant and the person accused of prohibited harassment or discrimination may provide information relevant to the complaint, including the names of any witnesses to the Administrative Reviewer(s) or the Equal

Opportunity/ADA Office.

4. In determining whether alleged conduct violates this Policy and what, if any, corrective action should be taken, the Administrative Reviewer must consider the record as a whole, including the nature of the alleged conduct and the context in which it occurred, and determine whether a preponderance of the evidence shows that this Policy has been violated.

D. Report and Documentation

1. At the conclusion of an Administrative Review, the Administrative Reviewer(s) will prepare a written report (“Administrative Review Report”) that includes subject to confidentiality protections provided by the State Personnel Act: factual findings, a summary of witness statements, a determination of whether this Policy has been violated, and the resolution of the complaint, including any corrective actions recommended or taken.
2. Upon receipt of the Administrative Review Report, the Dean, Director, or Department Chair shall have no more than five (5) calendar days to either accept or reject the recommendations contained in the report, subject to any appeal rights.
3. The Equal Opportunity/ADA Office will notify the parties, to the extent permitted by law, of the results of the review and efforts to resolve the complaint within ten (10) calendar days after the final report is issued. The Equal Opportunity/ADA Office will inform the Complainant that appropriate corrective action has been taken, but cannot reveal the specifics of the action if it is a confidential personnel action. Additional information regarding what may and may not be reported to either party is available from the Office of University Counsel.
4. The University will maintain an appropriate record in the confidential departmental personnel file.

E. Actions Taken As a Result of the Review

1. If an Administrative Review results in a finding that the conduct or issue complained of violates this Policy, appropriate corrective action must be taken. In deciding what action is appropriate, the Administrative Reviewer should consult with the Equal Opportunity/ADA Office, and/or the Office of Human Resources, the Academic Personnel Office, and the appropriate Dean, Director, or Department Chair.

Corrective action to correct the accused party’s conduct may include counseling about the behavior, a written warning, or other appropriate action, up to dismissal. The Administrative Reviewer may also take measures to

assist the Complainant, including but not limited to recommending a review of any negative performance decision that may have resulted from the conduct that violated this Policy or informing the Complainant of University resources, such as the Ombuds Office or the Employee Assistance Program that may be helpful.

2. If an Administrative Review results in a finding that the conduct or issue complained of does not violate this Policy, all parties will be advised of the finding and the basis thereof.

IV. Appeal of an Administrative Review

A. Information and Assistance with Formal Resolution

Information and assistance regarding formal resolution of a complaint is available from Employee & Management Relations in the Office of Human Resources.

B. Time frames for Filing an Appeal

If the Grievance Filing Form is not submitted to the Office of Human Resources or if an Administrative Review is not initiated within thirty (30) calendar days of the alleged harassment or discrimination, then the SPA employee shall have forfeited his/her grievance rights regarding the issue. In such cases, the outcome of the Administrative Review is not eligible for appeal under the SPA Grievance Policy.

Consistent with Section I.A., above, an SPA employee who has not otherwise filed a grievance within thirty (30) calendar days from the date of alleged prohibited harassment or discrimination may not file a grievance under the SPA Grievance Policy if he/she feels that the Administrative Review failed to produce a satisfactory resolution.

C. Appeals to the Office of Administrative Hearings

In certain cases, an SPA employee may either file a complaint directly with the State's Office of Administrative Hearings (for more information see the Office of Human Resources' website at http://hr.unc.edu/policies-procedures-guidelines/spa-employee-policies/employee-relations/GRIEVE-SPA#P27_676) or may file a complaint with the State's Office of Administrative Hearings after the completion of the University's internal grievance procedure. See "Direct Appeal To Office Of Administrative Hearings" in the SPA Grievance Policy for more information on eligibility and procedures.

The University has 60 calendar days in which to respond to an employee's written complaint of prohibited harassment or discrimination. After 60 calendar days has been reached, if the SPA employee is not satisfied with the University's response, he/she may appeal to the Office of Administrative Hearings within 30 calendar days. If the University issues a written decision in fewer than 60 calendar days and waives additional time in writing, and the SPA employee acknowledges in writing his/her receipt of the decision and the waiver, then the SPA employee may appeal to the Office of Administrative Hearings within 30 calendar days of his/her receipt of the decision.

An applicant who alleges a denial of employment based on prohibited harassment or discrimination may also file a grievance directly with the Office of Administrative Hearings (for more information see the Office of Human Resources' website at http://hr.unc.edu/policies-procedures-guidelines/spa-employee-policies/employee-relations/GRIEVE-SPA#P27_676).